
IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

FRANCISCO MARCOS,

Defendant.

**ORDER FOR RESTORATION
OF COMPETENCY**

Case No. 2:17-CR-339 RJS

On December 5, 2017, at a status conference on this case, the issue of Defendant Francisco Marcos-Hernandez' competency to stand trial was raised by the parties. The Court, having observed the behavior of Mr. Marcos-Hernandez at the Status Conference and having reviewed the psychological evaluation prepared by Dr. Angela Eastvold regarding Mr. Marcos-Hernandez' competency to stand trial dated October 4, 2017, (evaluation) scheduled a Competency Hearing for December 15, 2017. The Competency Hearing was rescheduled to December 11, 2017. At the Competency Hearing held on December 11, 2017, the parties agreed with the opinion as expressed by Dr. Angela Eastvold in her evaluation of Defendant that Defendant currently suffers from a mental disease that renders him incompetent to stand trial. The Court

has now observed the behavior of Defendant at the hearings of December 5, 2017 and December 11, 2017, and has reviewed the evaluation, afforded Defendant with the opportunity to testify and complied with the other provisions set forth in 18 U.S.C. § 4247(d).

A defendant is competent to stand trial if he “has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding—and whether he has a rational as well as factual understanding of the proceedings against him.” *Godinez v. Moran*, 509 U.S. 389, 396 (1993)(quoting *Dusky v. United States*, 362 U.S. 402, 402 (1960)).

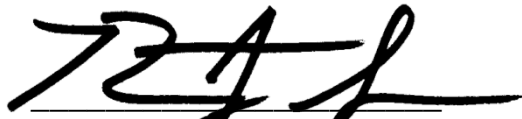
If, after a hearing, the court finds “by a preponderance of the evidence” that the defendant is incompetent, “the court shall commit the defendant to the custody of the Attorney General.” 18 U.S.C. § 4241(d) (emphasis added). The Attorney General shall then “hospitalize the defendant for treatment in a suitable facility.” *Id.*

Here, both parties agree that Mr. Marcos-Hernandez is currently incompetent to stand trial. Based on the evidence before the Court, the Court agrees with the parties and finds that Mr. Marcos-Hernandez is currently suffering from a mental disease or defect that renders him incompetent to stand trial. Accordingly, the court commits Defendant to the custody of the

Attorney General under 18 U.S.C. § 4241(d). The Attorney General is directed to “hospitalize the defendant for treatment in a suitable facility for . . . a reasonable time not to exceed four months, as is necessary to determine whether there is a substantial probability that in the foreseeable future he will attain the capacity to permit the proceedings to go forward.” Id. § 4241(d)(1).

Dated this 19TH day of December, 2017.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'RJH', is written over a horizontal line.

ROBERT J. SHELBY
United States District Court Judge